

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NEW FALLS CORPORATION, :
:
Plaintiff, :
:
v. :
:
SONI HOLDINGS, LLC, *et al.*, :
:
Defendants. :
-----X

DECISION & ORDER
19-CV-449 (WFK) (SIL)

WILLIAM F. KUNTZ, II, United States District Judge:

Before the Court are two requests by defendants. Defendants Weanona Hugie and Richard Spears (“H&S Defendants”) request leave to file a motion to dismiss or, in the alternative, to file a late Answer to the Amended Complaint. *See* ECF Nos. 140, 142. Defendants Soni Holdings, LLC, Kunal Soni, Anjali Soni, 632 MLK Blvd. Jr. LLC, Om P. Soni, Soni Capital Resources, LLC (“Soni Defendants,” and together with H&S Defendants, “Defendants”) request permission to file a motion for judgment on the pleadings under Rule 12(c) of the Federal Rules of Civil Procedure. The Court assumes the parties’ familiarity with the facts and addresses each request below.

1. Request to File a Late Motion to Dismiss or Answer to the Amended Complaint

On February 15, 2022, over three years after the commencement of this action, counsel for the H&S Defendants filed a letter requesting leave to renew a motion to dismiss the Amended Complaint. *See* ECF Nos. 108, 140. Counsel submitted the original motion to dismiss on June 18, 2020, which was denied by the late Judge Sandra J. Feuerstein on July 23, 2020—nearly twenty months prior to defense counsel’s letter—with leave to renew the motion. Defense counsel claimed he was not aware of Judge Feuerstein’s July 23, 2020 order denying his motion because of personal circumstances, including illness and parental obligations, and argued these

circumstances constituted “good cause” to permit him to renew the motion. ECF No. 140; *see* ECF No. 142. Plaintiff opposed the request in all respects. *See* ECF No. 141.

While the Court is sympathetic to the need for counsel to fulfill his parental obligations and to care for his health, these reasons do not justify a delay of nearly twenty months, and as a result, do not constitute good cause. During this time, counsel participated in at least one conference in this action (and failed to make an appearance in another) and was advised by opposing counsel in a status report that the motion to dismiss had been denied by Judge Feuerstein. *See* ECF No. 111. Defense counsel also presumably received an electronic notice of the order denying his motion to dismiss, placing him on notice that he needed to re-file his motion. The Court thus DENIES defense counsel’s request to renew his motion or, in the alternative, to file a late Answer to the Amended Complaint.

2. Request for Leave to File Motion for Judgment on the Pleadings

At the March 4, 2022 status conference, the Soni Defendants requested permission to move for judgment on the pleadings under Rule 12(c) with respect to Plaintiff’s Racketeer Influenced and Corrupt Organizations Act claims as to all Defendants. *See* Am. Compl. at 18-32, ECF No. 26; *see also* 18 U.S.C. §§ 1961, *et seq.* The Court DENIES this request.

CONCLUSION

For the reasons stated above, Defendants’ requests are DENIED. As discussed during the March 4, 2022 status conference, the Court ORDERS the parties to notify the Court in writing, within two weeks of the Court of Appeals for the Second Circuit’s ruling on Defendants’ pending appeal in *New Falls Corp. v. Soni Holdings, LLC*, Dkt. No. 21-00865 (2d Cir. Apr. 5, 2021), *see* ECF No. 122, of (1) the parties’ choice of mediator, if agreed upon; or (2) whether the parties wish the Court to appoint a mediator.

SO ORDERED.

S/ WFK

HON. WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: March 4, 2022
Brooklyn, New York